

ADVOCACY SUBMITS COMMENTS ON THE FEDERAL ACQUISITION COUNCIL PROPOSED RULEMAKING ON RESEARCH AND DEVELOPMENT CONTRACTS FOR SMALL BUSINESSES

On October 8, 2012, the Office of Advocacy of the U.S. Small Business Administration (Advocacy) submitted a comment letter to the Federal Acquisition Council (Council) on the proposed rule on *Small Business Set Asides for Research and Development Contracts*.

The comment letter focused on the proposed amendment to FAR Part 19.502(b)(2) which requires agencies in making set-aside small business research and development contracts to require these contracts to meet a scientific and technological test that is not imposed on other FAR 19 small business set-aside contracts. A copy of Advocacy's comments can be found at [www.sba.gov/advo](http://www.sba.gov/advo).

- On August 10, 2012, the Federal Acquisition Council published in the Federal Register a proposed regulation: "Small Business Set Asides for research and Development Contracts," Federal Register Volume 77, Number 155, Pages 47797-47799.
- The Council is proposing to address the restrictive nature of the current FAR Part 19 provision by clarifying that contracting officers shall set aside acquisitions for research and development for small businesses when there is also a reasonable expectation, as a result of market research, that there are two or more small businesses capable of providing the best scientific and technological approaches.
- Advocacy has been advised that the additional language in FAR Part 19.502(b)(2) requiring the best scientific and technological sources has been interpreted as an additional and unique condition that must be met before a contracting officer can proceed with a small business set-aside for research and development.
- Advocacy is of the belief that the above provision conflicts with the general requirement for a total set-aside above the simplified acquisition threshold. There is no statutory basis for this additional burdensome requirement.
- Advocacy recommends the removal of this additional requirement. In the alternative, Advocacy supports the proposed regulatory change as reflected in the proposed regulation of August 10, 2012.

For more information, visit Advocacy's webpage at [www.sba.gov/advo](http://www.sba.gov/advo) or contact Major L. Clark, at 202-205-7150, or [major.clark@sba.gov](mailto:major.clark@sba.gov).